

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Chris Olmsted	Team: Squad #9	CCRB Case #: 201908857	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 07/16/2019 5:30 AM	Location of Incident: [REDACTED]	Precinct: 77	18 Mo. SOL 1/16/2021	EO SOL 9/2/2021	
Date/Time CV Reported Sat, 09/28/2019 11:42 AM	CV Reported At: CCRB	How CV Reported: Mail	Date/Time Received at CCRB Mon, 10/07/2019 4:31 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Claudio Paula	3327	939188	WARRSEC
2. DT3 Kevin Harding	1519	950559	WARRSEC
3. DT3 Robert Divers	5609	957551	WARRSEC

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Claudio Paula	Abuse: Detective Claudio Paula entered a room inside § 87(2)(b) [REDACTED] in Brooklyn.	[REDACTED]
B.DT3 Kevin Harding	Abuse: Detective Kevin Harding entered a room inside § 87(2)(b) [REDACTED] in Brooklyn.	[REDACTED]
C.DT3 Kevin Harding	Force: Detective Kevin Harding pointed his gun at § 87(2)(b) [REDACTED]	[REDACTED]
D.DT3 Robert Divers	Force: Detective Robert Divers pointed his gun at § 87(2)(b) [REDACTED]	[REDACTED]
E.DT3 Claudio Paula	Abuse: Detective Claudio Paula refused to show the arrest warrant to § 87(2)(b) [REDACTED]	[REDACTED]

Case Summary

§ 87(2)(b) filed this complaint with the CCRB by mail on September 28, 2019. The CCRB received the complaint on October 7, 2019.

On July 16, 2019, at approximately 5:30 a.m., Detectives Claudio Paula, Kevin Harding, and Robert Divers, all of the Warrant Section, went to § 87(2)(b) in Brooklyn to apprehend § 87(2)(b) on probable-cause-to-arrest I-Card § 87(2)(b) (Board Review 01). While there, Detectives Paula and Harding entered § 87(2)(b) room. (**Allegations A and B: Abuse of Authority;** § 87(2)(g)) During the incident, Detective Harding allegedly pointed his gun at § 87(2)(b) and Detective Divers allegedly pointed his gun at § 87(2)(b)'s girlfriend, § 87(2)(b) (**Allegations C and D: Force;** § 87(2)(g)) Detective Paula allegedly refused to show § 87(2)(b) the warrant. (**Allegation E: Abuse of Authority;** § 87(2)(b), § 87(2)(g))

No video footage was obtained for this incident. Detectives Paula, Harding, and Divers had not been assigned body-worn cameras at the time of this incident.

§ 87(2)(b) was arrested during this incident for § 87(2)(b). (Board Review 02)

Findings and Recommendations

Allegation (A) Abuse of Authority: Detective Claudio Paula entered a room inside § 87(2)(b) in Brooklyn.

Allegation (B) Abuse of Authority: Detective Kevin Harding entered a room inside § 87(2)(b) in Brooklyn.

§ 87(2)(b) stated that on the morning in question he heard the lock on his door rattle, got out of bed, and approached the door. He did not say anything, and the persons on the other side of the door did not identify themselves. When the door opened, § 87(2)(b) pushed it back towards the opener. He intended this to prevent anyone from entering the room. Someone opened the door again, more forcefully than before. PO1, PO2, and PO3 entered the room. (Board Review 03)

Detective Paula stated that when he, Detective Harding, and Detective Divers arrived at § 87(2)(b) on the morning in question he approached the security desk at the front of the shelter, identified himself as police, and presented a parole warrant for § 87(2)(b) to the employee. The employee stated they recognized the photo and that the individual was present at the shelter. The employee escorted Detectives Paula, Harding, and Divers to the door of a room on the basement level and brought a key to the door. At the door, the employee informed the officers that the room had another exit outside. Detective Divers and the employee left.

Detective Divers radioed to Detective Paula that he was in position at the other door. At approximately that time, Detective Paula heard movement inside of the room. He knocked on the door, and § 87(2)(b) opened it. Detective Paula identified himself and Detective Harding as police officers. § 87(2)(b) tried to close the door. Detective Paula prevented the door from closing by pressing against the door with the palms of his hands. Detective Paula repeated that he was a police officer. § 87(2)(b) stopped trying to close the door. Detective Paula and Harding entered the room. (Board Review 04)

Detective Harding stated to the CCRB that upon arrival at § 87(2)(b) that morning, Detective Paula spoke with a staff member. That individual confirmed that § 87(2)(b) was

inside the building, showed officers to the door of § 87(2)(b) room, and gave Detective Paula a key to the room. The staff member then advised the officers that there was a second door to § 87(2)(b) room on the room's other side, and Detective Divers went to cover that door. Detective Harding stated that Detective Paula announced himself as NYPD and opened the door with the key, at which point the door was pushed closed again from the inside. He stated that Detective Paula knocked on the door and identified himself as police again, and § 87(2)(b) opened the door and was cooperative. Either Detective Harding or Detective Paula handcuffed § 87(2)(b) and they returned with Detective Divers to the van in which they had arrived without incident. (Board Review 05)

Detective Divers stated he did not witness Detective Harding and Detective Paula's initial interactions with § 87(2)(b) or their entry into his room. (Board Review 06)

§ 87(2)(b) stated to the CCRB that the shelter policy is to escort NYPD officers to a sought individual's door but not to facilitate their entry. (Board Review 07)

A Warrant/I-Card search report for § 87(2)(b) did not include a parole warrant. (Board Review 08) However, DD5s from the investigation note that detectives spoke with a parole officer, who stated § 87(2)(b) had an open parole warrant. An arrest report for § 87(2)(b) prepared on § 87(2)(b) regarding his transfer out of NYC DOC custody notes "an investigation determined that the subject is a wanted fugitive from the state of § 87(2)(b). The subject is wanted by the § 87(2)(b) parole department for violation of supervised release. The warrant and full extradition were verified. Timothy B. Rieale district parole supervisor. The warrant is signed by the § 87(2)(b) of the § 87(2)(b) parole board. Warrant number: § 87(2)(b) (Board Review 09)

Patrol Guide Procedure 208-42 states "when arresting a person for whom a warrant has been issued" arresting officers must "Announce authority and purpose if premises is involved, and there is reasonable cause to believe that defendant is inside, EXCEPT if giving such notice may:

- a. Endanger the life or safety of the officer or another person, OR
- b. Result in defendant attempting to escape, OR
- c. Result in material evidence being destroyed, damaged or hidden." (Board Review 10)

Both Detective Paula and Detective Harding stated Detective Divers was in position at the only other exit to prevent any escape attempt before any officer knocked on § 87(2)(b) door. § 87(2)(b) stated that no officers announced themselves before entering his room. Detectives Paula stated he knocked on § 87(2)(b)'s door, § 87(2)(b) answered it, and Detective Paula identified himself as police. Detective Harding stated that Detective Paula knocked on the door and announced himself as police.

§ 87(2)(g)
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§ 87(2)(g)

Allegation (C) Force: Detective Kevin Harding pointed his gun at § 87(2)(b)

Allegation (D) Force: Detective Robert Divers pointed his gun at § 87(2)(b)

§ 87(2)(b) stated that he heard individuals outside his door and feared for his safety. Officers did not announce themselves. § 87(2)(b) got up, stood behind his door, and when it opened, he

pushed it shut again. Officers opened the door again and entered his room. Each had a gun in one hand, a flashlight in the other, and was crossing their wrists in front of them. Detective Harding pointed his gun at § 87(2)(b) and Detective Divers pointed his gun at § 87(2)(b) (Board Review 03)

Detective Paula stated that no officer drew a firearm during the incident and that it would not have been appropriate. (Board Review 04)

Detective Harding stated no officer drew a firearm during the incident. He stated that when he was briefed that morning about § 87(2)(b) he heard no reason to believe that § 87(2)(b) presented a special threat to officers. He stated that Detective Paula announced NYPD presence and opened the door, at which point the door was pushed closed again. He stated that Detective Paula knocked on the door and identified himself as police again, at which point § 87(2)(b) opened the door and was cooperative. (Board Review 05)

Detective Divers stated he was not in a position to see whether officers had firearms drawn when they entered the room. He stated that by the time he arrived at the room, no officer had a weapon drawn. He stated he did not draw his weapon during the incident. (Board Review 06)

The CCRB was unable to reach § 87(2)(b)

Patrol Guide Procedure 221-01 states, “the decision to display or draw a firearm should be based on an articulable belief that the potential for serious physical injury is present.” (Board Review 11)

§ 87(2)(g)

Allegation (E) Abuse of Authority: Detective Claudio Paula refused to show the arrest warrant to § 87(2)(b)

§ 87(2)(b) stated that he asked Detectives Paula, Harding, and Divers to see a copy of the warrant for which he had been arrested. He stated no officer showed him the warrant. (Board Review 03)

Detective Paula stated that he brought a copy of the warrant with him to the scene and while inside § 87(2)(b) room, § 87(2)(b) asked to see it. Detective Paula stated he showed it to him. (Board Review 04)

Detective Harding stated he saw Detective Paula show a copy of the warrant to § 87(2)(b) (Board Review 05)

Detective Divers stated he was not in a position to see the initial interactions between Detectives Paula and Harding, and § 87(2)(b) He stated that from the point at which he regrouped Detective Paula and Harding onwards he did not witness any discussion of a warrant. (Board Review 06)

§ 87(2)(b) stated that officers refused to show him the warrant for his arrest. Detectives Paula

and Harding stated that Detective Paula showed § 87(2)(b) the warrant for his arrest. § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party. (Board Review 12)
- Detective Paula has been a member of service for 15 years. He has been a subject in six other CCRB complaints and 20 allegations, none of which was substantiated. § 87(2)(g)
- Detective Harding has been a member of service for nine years. He has been a subject in three other CCRB complaints and six allegations, none of which was substantiated. § 87(2)(g)
- Detective Divers has been a member of service for six years. He has been a subject in two other CCRB complaints and five allegations, none of which was substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This case was not eligible for mediation.
- According the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City. (Board Review 13)
- § 87(2)(b) filed a Notice of Claim with the City of New York claiming he was falsely arrested, that officers pointed a gun at him, that he lost his housing, and that he suffered emotional damage, serious emotional distress, mental abuse, and serious mental anguish, and seeking \$1,000,000 as redress. (Board Review 14) The CCRB found no records of previous or upcoming 50A hearings.

Squad No.: 09

Investigator:	<u>Christopher Olmsted</u>	<u>Investigator Chris Olmsted</u>	<u>June 16, 2021</u>
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date